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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2659 OF 2007

Srinivas B. Joshi .... Petitioner

Versus

Union of India and Ors. .... Respondents

Mr. V.Joglekar with Mr. Anurag Jain for Petitioner.

Mr. S. Jagtiani i/by Divya Shah & Associates for R.Nos. 3 and 4.

Mr.A.N. Sawant for R. Nos. 1 and 2.

**CORAM: F.I. REBELLO &**
**R.M. SAVANT,JJ.**
**DATED: APRIL 30, 2007**

**P.C.:**

. The Petitioner in the instant case, was allotted by the communication dated 5.12.2000 a Milk Parlour contract at Solapur Railway Station on Plat Form Nos. 2/3 for the period of five years from the date of functioning. It is the case of the Petitioners that actual licence commenced on 19.1.2001. As such it would expire on 18.1.2006 taking the Petitioner's case at the highest. The Petitioners have approached this court as the respondents now have advertised giving of the stall at the location at which the Petitioners present stall is existing. On behalf of the Petitioners, it is contended that the present Railway policy it is very specifically set

out in Exh. D para "15.10" that milk stalls/Parlour licenses are to be awarded by calling applications from Apex dairy Cooperative Societies approved by the Government at the Centre/State/Union Territories, who are members of National Cooperative Dairy Federation of India and/or developed under the aegis of "operation of Flood" programme. It is submitted that the notification of stall operated by the Petitioners wherein he was running milk parlour, the respondents have now called for the general purpose. This, it is submitted, could not have been done. On the other hand on behalf of the I.R.T.C. their learned counsel draws our attention to the circular of the Railway Board dated 19.4.2005 and more specifically Clause (6) which sets out as under :

> "Need for such stalls will be determined by Zonal Railways. While selecting space, it must be ensured that there is no congestion at the station and passenger flow is not affected."

. Even otherwise, whether particular stall earlier used for the particular purpose, can be changed to another purpose is entirely in the discretion of the Respondents. The Petitioner can have no say in the

matter, as long as the period for which the licence was granted, has been allowed to be enjoyed. In the instant case, it has expired by efflux of time.The first contention therefore, is devoid of merits.

. It is next contended by the Petitioners that even considering the new policy of December 21, 2005, the Petitioners are entitled to claim one more extension. For that purpose, reliance is placed on Clause 13 which is a clause pertaining to tenure. A perusal of the said clause would indicate that this can only be for units allotted by tender process. In the instant case, it is general minor units and it had to be allotted by tender process. This therefore, cannot apply in respect of those units which had not been allotted by tender process. The new policy does not provide for allotting general minor units by application. Considering the above, there is no case made out for interference. Hence, Petition rejected.

**(R.M. SAVANT,J.)** **(F.I.REBELLO, J.)**